

A. OWNERSHIP AND AVAILABILITY OF INCOME

Purpose: This section includes rules and procedures we use to decide:

- If a client owns income;
- If income is available to clients; and
- What clients must do to make potential income available.

WAC 388-450-0005 Income--Ownership and availability.

- (1) For TANF/SFA, RCA, GA, TANF/SFA-related medical and food assistance programs:
 - (a) All available income owned or possessed by a client is considered when determining the client's eligibility and benefit level.
 - (b) Ownership of income is determined according to applicable state and federal laws pertaining to property ownership and eligibility for assistance programs. For married persons, ownership of separate and community income is determined according to chapter 26.16 RCW.
 - (c) Income owned by a client is considered available when it is at hand and may be used to meet the client's current need. The gross amount of available income is counted in the month it is received.
 - (i) If income is usually available on a specific day, it is considered available on that date.
 - (ii) If income is usually received monthly or semi-monthly and the pay date changes due to a reason beyond the client's control, such as a weekend or holiday, it is counted in the month it is intended to cover rather than the month it is actually received.
 - (iii) If income is usually received weekly or bi-weekly and the pay date changes due to a reason beyond the client's control, it is counted in the month it is received.
 - (d) The income of a person who is not a member of a client's assistance unit

may be considered available to the client under the rules of this chapter if the person is financially responsible for the client and lives in the home with the client. For medical programs, financial responsibility is described in WAC 388-408-0055.

- (e) For medical programs, the income of a financially responsible person, not living in the home is considered available to the extent it is contributed.
- (f) Funds deposited into a bank account which is held jointly by a client and another are considered income possessed by and available to the client unless:
 - (i) The client can show that all or part of the funds belong exclusively to the other account holder and are held or used solely for the benefit of that holder; or
 - (ii) The funds have been considered by the Social Security Administration (SSA) when determining the other account holder's eligibility for SSI benefits.
- (g) Potential income is income a client may have access to that can be used to reduce the need for assistance. For cash and medical programs, when the department determines that a potential income source exists, the client may be denied assistance when the client fails or refuses to make a reasonable effort to make the income available.
 - (i) A client's eligibility is not affected until the income is received as long as the client makes reasonable efforts to make potential income available; and
 - (ii) A client may choose whether to receive TANF/SFA or Supplemental Security Income (SSI) benefits.
- (2) For TANF/SFA, RCA, GA and food assistance programs the income of an alien's sponsor is considered available to the alien under the rules of this chapter when determining the alien's eligibility and benefit level.
- (3) For SSI-related medical:

- (a) Income is considered available and owned when it is:
 - (i) Received; and
 - (ii) Can be used to meet the clients needs for food, clothing and shelter, except as provided in WAC 388-511-1130.
- (b) Loans and certain other receipts are not defined as income for SSI-related medical purposes as described in 20 C.F.R. Sec. 416.1103.
- (4) For medical programs, trusts are described in WAC 388-505-0595.

WORKER RESPONSIBILITIES

Determine if clients have any potential income available.

1. Making a source of income available

- a. If a client meets all other eligibility factors, **do not** delay benefits if the client tries to make a potential source of income available but isn't able to.
- b. If a client can't make a source of income available for reasons beyond their control, consider the income as unavailable to the client.
- c. Clients must give proof of how a source of income can be available and when the income will be available. Request verification that the client has attempted to make potential income available. Examples of proof include:
 - (1) Financial Statements;
 - (2) Collateral Statements; and
 - (3) Letter from the person or company that has control of the income.

See **VERIFICATION** for information on how to request verification from clients.

See WAC 388-406-0030 to decide how much time to allow clients to provide the verification.

- d. **For medical programs**, clients must take all needed steps to get any annuities, pensions, retirement, and disability benefits they can receive.
 - (1) Clients do not have to take steps to get the income if they can show a good reason for not doing so.
 - (2) Examples of benefits the client must try to make available include:
 - (i) Veteran's compensation and pensions;
 - (ii) OASDI benefits;
 - (iii) Railroad retirement benefits; and
 - (iv) Unemployment compensation.
- e. Refer clients to the correct agency to apply for potential income and/or help clients get potential income if they ask for assistance.

2. When the date income is available changes:

- a. Budget the income for the date you expect the client to receive the income.
- b. Set an alert in ACES for the date we expect the client to receive the income to check if the income is available.

EXAMPLE

Client moved from another state and the job in the other state ended. Count the income when you could reasonably expect the client to get it.

3. Community income

- a. When a husband and wife are living together, count the following as community income:

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- (1) Income in the name of the husband, wife, or both spouses;
 - (2) Income that the husband, wife, or both spouses have access to;
 - (3) Income the husband, wife, or both spouses received; and
 - (4) Earnings of the husband, wife, or both spouses.
- b. Always count community income as **available** for cash assistance. It doesn't matter if one or both spouses are **applying for** or **receiving** benefits.
4. **Separate income**
- a. **Income is counted as separate income when the income:**
- (1) Was received by either spouse before marriage;
 - (2) Was received as a result of a gift or inheritance;
 - (3) Was received from separate property; or
 - (4) Are the earnings of the husband, wife, or both spouses when the spouses live separate and apart.
- b. **Separate income becomes community income** when it is put in an account with community income.
5. **If a client refuses to make income available:**
- a. For cash and medical assistance – deny or terminate assistance
 - b. For food assistance - **do not** deny or terminate assistance.
6. **Income source discovered after grant opening**
- Determine if the client knew about the source but did not tell us.
- a. If the client knew of the income source **and there is an overpayment**, follow

instructions in **BENEFIT ERRORS** to determine the client's intent.

- b. If the client didn't know about the income source, determine the client's eligibility from the date the client first learned about the income and the income was available to them.

7. **Jointly owned bank accounts**

- a. When a client has a joint bank account or is holding funds for someone else, determine if the client and the other person have a written or verbal agreement about the amount of the funds available to the client.
- b. If the client and the other person have an agreement, decide if the client uses more than this amount to meet their current needs. Count the excess as available unearned income and budget it for the assistance unit.
- c. If the client and the other person do not have an agreement, decide if the funds are available to meet the client's needs:
 - (1) Get a detailed record of the dates and amounts of money deposited into the account or given to the client to hold for the other person.
 - (2) Get a detailed record of the types and amounts of payments for the other party.
 - (3) Consider any amount over the itemized payments for the other party as income available to the client. Budget it as unearned income for the assistance unit.
- d. Review the client's circumstances at each eligibility review, reapplication, or when they report a change in the joint bank account or the source of funds.

Note: Do not count bank accounts held jointly with SSI recipients as a resource for cash or food assistance under WAC 388-470-0025 and 388-470-0035.

8. **Flexible benefits**

- a. Funds offered by an employer to help employees with medical, dependent care, or other expenses are called *flexible benefits*.

- b. **For food assistance**, treat flexible benefits that are available to the AU as a gain to the household and count the available funds as earned income. See WAC 388-450-0030 Earned income definition.
- c. Decide if the flexible benefits are available to the AU as follows:
 - (1) If the employer does **not** count the benefits as part of the client's gross income, count any amount the client can *get as a cash benefit* as earned income available to the assistance unit.
 - (2) If the employer counts the benefits as part of the client's gross income, count the entire amount as earned income available to the AU.

EXAMPLE 1

Client receives flex benefits that **are not counted** as a part of the client's gross income. Each month, she receives flex pay of \$180 to apply toward her health insurance of \$185 each month. This leaves the client with a \$5 out-of-pocket premium. The personnel department states that employees may choose to receive the allowance for health insurance or the employee can "opt-out" and get a cash payment of \$28 monthly. Count the \$28 monthly as earned income to the client whether or not the client chooses the medical as the \$28 is available to the client.

EXAMPLE 2

Client receives \$100 flexible benefits that **the employer counts** as a part of the client's gross income. Medical premiums are \$150 a month. This leaves the client with a \$50 out-of-pocket premium. The employer does not offer an "opt-out" cash benefit. Count the \$100 flexible benefits as earned income because the benefit is included as a part of the client's gross income.

9. Trusts and medical eligibility

- a. For the impact of a trust on medical eligibility, see **RESOURCES**.

WAC 388-511-1130 SSI-related income availability.

The department shall:

- (1) Consider client checks received in advance of the month the checks are normally received as income in the month of normal receipt;
- (2) Consider electronically transferred client funds available as income in the month of normal receipt, regardless of whether the banking institution posted the funds to the client's bank account before or after the month the funds are payable;
- (3) Include as countable income the earned or unearned income amounts withheld due to garnishment under a court, administrative or agency order. See WAC 388-513-1380(4) for garnishment affecting an institutionalized client; and
- (5) As a condition of eligibility, require a client to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which the client is entitled, unless the client can show good cause for not doing so. Annuities, pensions, retirement, and disability benefits include, but are not limited to, veteran's compensation and pensions, OASDI benefits, railroad retirement benefits, and unemployment compensation.

[Statutory Authority: RCW 74.08.090 & 74.05.040. 20 CFR 416.1110-1112, 1123, and 1160. 97-10-022, filed 4/28/97, effective 5/29/97. RCW 74.08.090. 94-10-065 (Order 3732), ' 388-511-1130, filed 5/3/94, effective 6/3/94. Formerly WAC 388-92-034 (part).]